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In re Application of	:	
BASTIOLI et al.	:	
Application No.: 09/936,534	:	DECISION ON PETITION
PCT No.: PCT/EP00/02227	:	UNDER 37 CFR 1.181
Int. Filing Date: 14 March 2000	:	
Priority Date: 15 March 1999	:	
Attorney Docket No.: 13929/T/B/A	:	
For: ARTICLES TO BE CHEWED BY	:	
ANIMALS	:	

This is a decision on applicants' "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(a), OR IN THE ALTERNATIVE, UNDER 37 CFR 1.137(b)" which is being treated as a Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181, filed in the Patent and Trademark Office (PTO) on 03 February 2003. No petition fee is due.

BACKGROUND

On 14 March 2000, applicants filed international application PCT/EP00/02227 which claimed a priority date of 15 March 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 September 2000. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States was midnight, 15 September 2001.

On 14 September 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee; a translation of the international application; an executed declaration; and an information disclosure statement.

On 15 November 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 27 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 15 November 2001 within the time period set therein.

On 03 February 2003, applicants filed Petition to Revive Abandoned Application under 37 CFR 1.137(a), or in the Alternative, under 37 CFR 1.137(b). Applicants state in the present petition, that the application was unavoidably abandoned as a result of the Applicants' failure to reply to a Notification of Missing Requirements, which was never received. Petitioner's statement will be treated as a petition to withdraw a holding of abandonment under 37 CFR 1.181.

DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicants have satisfied items (1) and (2).

With regard to item (3) above, applicants have not provided copies of the docket record where the notification mailed 15 November 2001 would have been entered had it been received or referenced such copies in the statement by practitioner. Specifically, applicant must provide a copy of the docket record for 15 January 2002 (ie, the date on which the response was due) showing all applications for which a response was due on that date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

CONCLUSION

The petition under 37 CFR 1.181 is DISMISSED without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

The \$55 petition fee filed with the present papers has been refunded to Deposit Account no.02-4467.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Anthony Smith", with a stylized flourish at the end.

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